

SENATE RECORD VOTE ANALYSIS

104th Congress
1st Session

Vote No. 510

October 26, 1995, 10:22 p.m.
Page S-15828 Temp. Record

BALANCED BUDGET RECONCILIATION/Alternate Medicare Fraud Provisions

SUBJECT: **Balanced Budget Reconciliation Act of 1995 . . . S. 1357. Exon motion to waive section 305(b)(2) of the Budget Act for the consideration of the Harkin amendment No. 2970.**

ACTION: MOTION REJECTED, 43-56

SYNOPSIS: As reported, S. 1357, the Balanced Budget Reconciliation Act of 1995, will result in a balanced budget in seven years, as scored by the Congressional Budget Office (CBO). The bill will also provide a \$245 billion middle-class tax cut, \$141.4 billion of which will be to provide a \$500 per child tax credit.

The Harkin amendment would strike all of the bill provisions to prevent health care fraud and abuse (except for the text of the Abraham amendment, as earlier agreed to; see vote No. 500) and would substitute in lieu thereof alternate provisions. The amendment's provisions include the following:

- state-of-the-art equipment would have to be purchased within 6 months of enactment of this Act in order to detect Medicare billing fraud;
- competitive bidding would be required to purchase durable medical equipment, medical supplies, and oxygen paid for by Medicare;
- Medicare payments for certain items, such as fines owed by health care providers for violations of Federal, State, and local laws, would be prohibited;
- a standardized claim form for Medicaid and Medicare would be required; and
- the method for paying for ambulance services would be reformed.

Debate on first-degree amendments to reconciliation bills is limited to 2 hours each. By unanimous consent, debate on the Harkin amendment was further limited to 10 minutes. Following debate, Senator Domenici raised the point of order that the Harkin amendment violated section 305(b)(2) of the Budget Act. Senator Exon then moved to waive that section for the consideration of the Harkin amendment. Generally, those favoring the motion to waive favored the amendment; those opposing the motion to waive opposed the amendment.

(See other side)

YEAS (43)		NAYS (56)			NOT VOTING (0)	
Republicans (0 or 0%)	Democrats (43 or 93%)	Republicans (53 or 100%)	Democrats (3 or 7%)		Republicans (0)	Democrats (0)
Akaka	Johnston	Abraham	Helms	Baucus		
Biden	Kennedy	Ashcroft	Hutchison	Bradley		
Bingaman	Kerrey	Bennett	Inhofe	Hollings		
Boxer	Kerry	Bond	Jeffords			
Breaux	Kohl	Brown	Kassebaum			
Bryan	Lautenberg	Burns	Kempthorne			
Bumpers	Leahy	Campbell	Kyl			
Byrd	Levin	Chafee	Lott			
Conrad	Lieberman	Coats	Lugar			
Daschle	Mikulski	Cochran	Mack			
Dodd	Moseley-Braun	Cohen	McCain			
Dorgan	Moynihan	Coverdell	McConnell			
Exon	Murray	Craig	Murkowski			
Feingold	Nunn	D'Amato	Nickles			
Feinstein	Pell	DeWine	Pressler			
Ford	Pryor	Dole	Roth			
Glenn	Reid	Domenici	Santorum			
Graham	Robb	Faircloth	Shelby			
Harkin	Rockefeller	Frist	Simpson			
Heflin	Sarbanes	Gorton	Smith			
Inouye	Simon	Gramm	Snowe			
	Wellstone	Grams	Specter			
		Grassley	Stevens			
		Gregg	Thomas			
		Hatch	Thompson			
		Hatfield	Thurmond			
			Warner			

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

NOTE: A three-fifths majority (60) vote of the Senate is required to waive section 305(b)(2). Following the failure of the motion to waive, the point of order was upheld and the amendment thus fell.

Those favoring the motion to waive contended:

Senators have no legitimate reason for opposing this amendment. It would enact long-overdue reforms to prevent the outrageous amount of fraud that is in the Medicare Program. The most important part of this amendment is that it would require competitive bidding for durable medical equipment, medical supplies, and oxygen paid for by Medicare. The Veterans Administration (VA) uses competitive bidding and consequently pays far less for these items than does Medicare. For example, the VA pays approximately half as much for oxygen as is paid under the Medicare Program. Some of the price run-ups are obscene--for example, the VA spends 4 cents each for a bandage that the Government pays 86 cents each to buy under the Medicare Program. Our understanding is that this amendment would save \$500 million more than would the Medicare fraud provisions it would replace. Therefore, this amendment is better than the underlying bill language and it should be supported.

Those opposing the motion to waive contended:

Ordinarily we would be supportive of an amendment that tackles Medicare fraud. We are not newcomers on Medicare fraud; we have been working diligently on this issue for years, and thus fully understand the scope of the problem. In fact, this bill contains provisions that are the culmination of years of work, particularly by Senator Cohen who more than any other Senator has been at the forefront of this issue. He has been trying to cut fraud long before most Senators were even aware there was any problem. Senator Cohen was successful in persuading the Finance Committee to include the Medicare anti-fraud provisions in this bill because they are structured so as to produce savings of \$4.2 billion. These provisions were carefully worked out--they have broad bipartisan support in Congress, plus they have the support of health care advocates, health care providers, the Justice Department, and the White House. Bringing these groups together was no easy task. Our understanding from the Congressional Budget Office is that the Harkin amendment would achieve less, not more, savings than the bill provisions, but, more importantly, it would not accept many of the reforms that all parties have already agreed to and it would substitute new reforms. Frankly, we do see any value for introducing uncertainty on an issue that has already been resolved, especially when doing so will result in less savings. Therefore, though we appreciate our colleagues' interest in this area, this amendment should be rejected because it would introduce uncertainty and jeopardize passage of needed Medicare reforms.